

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DARREN McMULLEN,

Plaintiff,

-against-

5:05-CV-1484
(LEK/GHL)

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on July 29, 2008, by the Honorable George H. Lowe, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 10).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Lowe's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 10) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

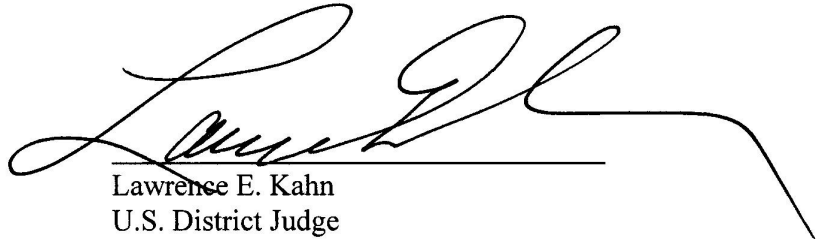
ORDERED, and that this matter be remanded to the Commissioner, pursuant to sentence

four of 42 U.S.C. § 405(g)¹ for further proceedings; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: August 18, 2008
Albany, New York



Lawrence E. Kahn
U.S. District Judge

¹ Sentence four reads: “[t]he court shall have the power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” 42 U.S.C. § 405(g) (2005).